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VIA EMAIL AND ELECTRONIC FILING

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Washington, DC 20002

**RE: United States of America v. Emmitt Martin, III
United States District Court for the Western District of Tennessee
Case No. 2:23-cr-20191-MSN**

SECOND REQUEST FOR DISCOVERY

Dear Mr. Pritchard, Mr. Christian, and Ms. Gilbert:

Mr. Martin, through counsel William D. Massey, made an initial request for discovery in this case on September 21, 2023. (Doc. 48). You have filed two formal responses (Docs. 47 and 94), and provided discovery via internet download links, hard drives, and made items available for inspection at the United States Attorney's Office. By our count, there have been 9 discovery productions from the government, the most recent of which was made via USAfx download on January 26, 2024. We also received your opinion testimony disclosures on January 31, 2024, via electronic filing. Our analysis and review of the voluminous discovery materials are ongoing. As you know, our office did not get involved in this case until November of 2023, and we were not involved in the state case pending in Shelby County Criminal Court against Mr. Martin.

1. Rule 12(b)(4)(B) Request. The initial comprehensive discovery request made by Mr. Martin on September 21, 2023, fairly encompasses a request for materials falling under Federal Rule of Criminal Procedure 12(b)(4)(B). To clarify, though, and given the extensive volume of materials provided, Mr. Martin requests “notice of the government’s intent to use (in its evidence-in-chief at trial) any discoverable evidence under Rule 16.” *See Fed. R. Crim. P. 12(b)(4)(B).* There is a difference between what must be produced and what the government intends to use in its case-in-chief at trial. Given the volume of information provided, such as the extensive video and audio footage, it is necessary for the government to detail what it is going to use in its evidence-in-chief. For example, if the government is intending to introduce certain audio or video recordings, or any other form of an alleged statement (such as a writing), under Federal Rule of Evidence 801(d)(2)(E), in a multi-defendant case it is necessary for the defense to have notice in advance so that the appropriate pretrial litigation can occur on the admissibility of such evidence to prevent any constitutional confrontation issue at trial and to enable effective preparation of the defense.

2. Brady Designation. The items provided to date consist of over 800 gigabytes of material in multiple formats, ranging from documents to recordings. While a large amount of information has been produced, it is unclear which items the government intends to introduce in its case-in-chief, what is material to defense preparation, and what is *Brady*. We request that any *Brady* material within the discovery previously provided be identified specifically, and specifically for any future supplemental discovery provided. *See United States v. Saffarinia*, No. 19-216, 2020 U.S. Dist. LEXIS 6735, 2020 WL 224599 (D.D.C. Jan. 15, 2020) (Sullivan, D.J.) (requiring government to delineate exculpatory evidence provided out of voluminous materials disclosed).

3. Specific Request Regarding Cellular Phones. You have indicated that there are certain materials available for inspection at the United States Attorney’s Office. (Doc. 94). You have also recently provided select printouts from the Cellebrite report for defendant Haley’s cellular phone. We are specifically requesting the full extraction reports from Cellebrite, or any other extraction software, in your possession for any cellular phones obtained. Given potential limitations with production via download link or USAfx, please let us know if we need to provide you with a download link for these extraction reports.

Sincerely yours,

RITCHIE, DAVIES, JOHNSON & STOVALL, P.C.

/s/ Stephen Ross Johnson
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